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APR 13 1993

[REDACTED]

Employer Identification Number: [REDACTED]
Key District: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(6) of the Internal Revenue Code. We have determined that you fail to qualify for exemption under that section of the Code. Our reasons for this conclusion and the facts upon which it is based are explained below.

The information you have submitted indicates that you were established as the [REDACTED] by [REDACTED] state statute. You make assessments of licensed persons, corporations and partnerships engaged in [REDACTED] in the state of [REDACTED], for the purpose of securing workers' compensation insurance on a blanket basis for the benefit of all [REDACTED] who are employees under section [REDACTED] of the workers' compensation law of [REDACTED].

In order to pay the costs of the insurance required by this section and by the workers' compensation law, you will ascertain the total funding necessary and establish the sums that are paid annually and equally by each owner and trainer licensed or required to be licensed under [REDACTED].

Funds that are collected are transferred to you. The funds are then used to purchase worker's compensation insurance for [REDACTED]. If your Board of Directors determine that the amounts which have been deposited are inadequate to pay the costs required, the [REDACTED] Board is then notified of the deficiency and the amount of the additional equal sums necessary to be deposited by each owner and trainer in order to cover such deficiency. All funds that are received are placed into a separate insured interest-bearing accounts.

Section 501(c)(6) of the Code provides for the exemption from federal income tax of business leagues which are not organized for profit and no part of the net earnings of which are not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Income Tax Regulations provides that a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit.

The activities of the organization must be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining is not a business league.

There are several characteristics that an organization must possess in order to meet the requirements of 501(c)(6). Those characteristics are:

(1) It must be an association of persons having some common business interest, and its purpose must be to promote this common business interest;

(2) It must not be organized for profit;

(3) No part of its net earnings may inure to the benefit of any private shareholder or individual;

(4) Its activities must be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons;

(5) Its purpose must not be to engage in a regular business of a kind ordinarily carried on for profit, even if the business is operated on a cooperative basis or produces only sufficient income to be self-sustaining.

Rev. Rul. 68-264, 1968-1 C.B. 264 defines a particular service for the purposes of section 501(c)(6) of the Code as being an activity that serves as a convenience or an economy to the members of the organization in the operation of their businesses.

Rev. Rul. 73-452, 1973-2 C.B. 183 holds that an organization created under State statute to pay claims against insolvent fire and casualty insurance companies qualifies for exemption as a business league under section 501(c)(6) of the Code. The ruling holds that by assuring the payment of claims and providing a means for their orderly liquidation, the organization is serving a quasi-public function imposed by law which is directed at relieving a common cause of hardship and distress of broad public concern in the field of insurance protection.

It was also recognized that the function served an important common business interest of the industry by meeting a widespread need which is incident to the field of insurance, could not be effectively met in the ordinary course of the individual insurance businesses of the members, and did not directly enhance the profitability of such individual businesses.

Rev. Rul. 74-81, 1974-1 C.B. 135 holds that a nonprofit organization formed to promote the business welfare and interests of persons engaged in the contracting trade and related industries and whose principal activity is to provide its members with group workmen's compensation insurance which was underwritten by a private insurance company is not entitled to exemption under section 501(c)(6) of the Code.

Rev. Rul. 81-174, 1981-1 C.B. 336 holds that a nonprofit association of insurance companies that provides medical malpractice insurance to health care providers is not exempt under section 501(c)(6) of the Code. The organization is operating in a manner similar to a business ordinarily carried on for profit and also serves as an economy or convenience to its members in providing necessary protection to its policyholders.

The information you have submitted establishes that you were established by the state to enable qualifying companies to have an alternative to participating in the state workmen's compensation insurance program. You are operating as a mutual insurance company because the assessments imposed upon your members creates an insurance fund to pay the claims against your insolvent members.

You are similar to the organization described in Rev. Rul. 74-81. That Rev. Rul. holds that providing group workmen's compensation insurance for members through a private insurance company relieves the members of the obligation of obtaining this insurance on an individual basis. This serves as an economy and a convenience to them in performing their individual business, a particular service within the meaning of section 501(c)(6) of the Code. Hence the organization did not qualify under section 501(c)(6).

[REDACTED]

Your program is distinguishable from that of the organization described in Rev. Rul. 73-452 in that your activities are not directed at relieving a common cause of hardship and distress of broad public concern. Your members have elected to become self-insured. They have concluded that this alternative is a preferable way of doing business. This does not meet a need incident to the performance of your members' businesses which can not be effectively met in the ordinary course of their business.

You are providing workmen's compensation insurance on a blanket basis for the benefit of all [REDACTED] who are employees under Section [REDACTED] of the workers' compensation law of [REDACTED]. This activity serves as an economy and a convenience for your members, and therefore can only be interpreted as being particular services as described within the meaning of section 501(c)(6) of the Code.

Because you are providing insurance for your members through a fund you are also similar to Rev. Rul. 81-174. In the Rev. Rul. the Service recognized that an organization operating a mutual medical malpractice insurance fund is both providing a particular service to its members and also operating in a manner similar to a business carried on for profit. It was difficult to differentiate the organizations activities from that of a [REDACTED]. Therefore, it also did not qualify for exemption under section 501(c)(6).

You provide your members a vehicle which enables them to meet the requirements of the state law governing the provision of workers' compensation insurance. Furthermore, in some instances you will be acting as an insurer because your members have agreed to accept a certain element of risk by insuring any member who becomes insolvent. Thus, it is apparent that this activity serves as an economy and a convenience for your members which constitutes the provision of particular services as described within the meaning of section 501(c)(6) of the Code.

Accordingly, we have concluded that the holdings in Rev. Ruls. 74-81 and 81-174 are applicable and you do not qualify for exemption under section 501(c)(6) of the Code.

Therefore, as stated above, this constitutes a particular service and you do not qualify for exemption under section 501(c)(6) of the Code. In addition, because there is an element of risk sharing you are operating in a manner similar to an insurance company and do not qualify for exemption under section 501(c)(6).

[REDACTED]

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter.

You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers or directors, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status or the filing of tax returns should be addressed to that office.

When submitting additional letters with respect to this case to the Internal Revenue Service, you will expedite their receipt by placing the following symbols on the envelope: E:EO:R:4 MH room 6236. These symbols do not refer to your case but rather to its location.

cc: DD, [REDACTED]
Attn: EO Group

Sincerely yours,
[REDACTED]

[REDACTED]
Chief, Exempt Organizations
Rulings Branch 4

E:EO:R:4 EEO:R:4

[REDACTED]
4/9/93

[REDACTED]
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